IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3851 of 1998

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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JARIFKHAN G PATHAN

Versus

CHIEF CONSERVATOR OF FOREST

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Appearance:

1. Special Civil Application No. 3851 of 1998

MR PH PATHAK for Petitioner No. 1-2

MR AJ DESAI, AGP for Respondent No. 1-2

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CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 12/01/2005

ORAL JUDGEMENT

Heard learned advocate Mr.P.H.Pathak for the petitioners and Mr.A.J.Desai, learned AGP for the

respondents.

In this matter, Forest Department is the respondent and the workmen are working with the Forest Department. In light of the decision rendered by the Full Bench of this Court, reported in 2004 (2) GLH 302, Government Resolution dated 17.10.1988 is not applicable to the employees working in the Forest Department. Therefore, this Court cannot go into those questions which are disputed and which would require detailed examination based on the oral and documentary evidence. Therefore, considering the prayers made by the petitioners in the present petition, it would be better if the petitioners are directed to raise industrial dispute under the machinery of the Industrial Disputes Act, 1947, and to get reference before the concerned tribunal for adjudication of the disputes that may be referred to by the conciliation officer for adjudication. This Court has, while issuing notice on 8.5.98, directed the respondents to maintain status quo qua service conditions of the petitioners.

Therefore, in light of this background, it will be open for the petitioners to raise industrial dispute in respect of the prayer made by them in the petition under the machinery of the ID Act, 1947 and to get proper adjudication by way of reference from the concerned tribunal. Learned advocate Mr.Pathak for the petitioners submits that the petitioners will raise the industrial dispute within one month. He however requests that some time may be given for follow up by the conciliation officer for making reference to the concerned tribunal. He also submits that some directions may be issued to the concerned conciliation officer to immediately initiate conciliation proceedings and to pass appropriate orders for referring the matter for adjudication.

In the light of these submissions made by the learned advocate Mr.Pathak, it will be open for the petitioners to raise industrial dispute in respect of the prayers made in the present petition within one month from the date of receipt of copy of this order. As and when such dispute is raised by the petitioners and received by the conciliation officer, the conciliation officer shall have to pass appropriate orders as required under the provisions of the ID Act, 1947 within two months from the date of receipt of copy of demand from the petitioners. During the pendency of the aforesaid period, status quo as regards existing service conditions of each petitioner shall continue to operate in favour of the petitioners herein and against the present

respondents till the appropriate order for making reference is passed by the conciliation officer and the communication thereof is received by the petitioners.

With these observations and directions, this petition is disposed of without observing anything on merits. Rule is discharged. Interim orders passed by this court shall stand vacated. No order as to costs.

(H.K.RATHOD, J.)

(sunil)